

CODE OF MASSACHUSETTS REGULATIONS
TITLE 453: DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

CHAPTER 7.00: APPRENTICE TRAINING

Current through September 29, 2000

7.01: Authority, Purpose, and Scope

(1) Authority. 453 CMR 7.00 is promulgated under the authority of M.G.L. c. 23. § 3; c. 23. §§ 11E, 11G and 11K.

(2) Purpose. 453 CMR 7.00 establishes:

(a) Criteria under which the Department of Labor and Workforce Development's Division of Apprentice Training may continue to be recognized as an appropriate agency for registering local apprentice programs for federal purposes pursuant to the Fitzgerald Act, 29 U.S.C. § 50 and the federal regulations promulgated thereunder, 29 CFR §§ 29.1 through 29.13;

(b) Minimum standards governing apprenticeship in Massachusetts to maintain the integrity of employment-based training programs and to safeguard the welfare of Massachusetts apprentices;

(c) Application procedures and requirements for obtaining status as a Massachusetts registered apprentice program;

(d) Procedures for redressing noncompliance by apprentices or apprentice program sponsors with any Massachusetts or federal law governing apprenticeship; and

(e) Notice and recordkeeping requirements with which all registered apprentice programs must comply.

(3) Scope. 453 CMR 7.00 shall apply to any person, firm, corporation, or other entity that applies for registration of an apprentice program with the Department of Labor and Workforce Development's Division of Apprentice Training, or enters into apprenticeship arrangements with registered apprentice program sponsors or apprentices.

7.02: Definitions

Apprentice. Any person. at least 16 years of age, except where a higher minimum age standard-is otherwise fixed by law. who is participating, through employment. in an approved schedule of work experience supplemented by related -instruction and who is a party to an apprentice agreement registered with the Department of Labor and Workforce Development's Division of Apprentice Training.

Apprenticeable Occupation. An occupation which possesses all of the following characteristics

(a) It involves mechanical, cognitive, literacy and technical skill and knowledge which customarily requires a minimum of two years or longer of work, training, and learning experience to learn the occupation;

(b) It is customarily learned in a practical way through a structured, hands- on, systematic program of on-the job training and task rotation that involves the development of skills sufficiently broad as to be applicable in like occupations throughout an industry and not narrowly restricted to the tools, materials and processes or operations of a single employer;

(c) It is clearly identified and commonly recognized throughout an industry and it is not part of another apprenticeable occupation unless such part is commonly practiced throughout an industry as an identifiable and distinct occupation possessing all of the characteristics set forth in 453 CMR 7.02;

(d) It requires a measurable component, depending upon the complexity and demands of the occupation, of instruction or study in related and technical subjects to supplement work-acquired skills.

Apprentice Agreement. A written agreement which conforms to the standards established under M.G.L. c. 23. §§ 11E through 11L and 453 CMR 7.00 and is entered into between an apprentice and an apprentice program sponsor.

Apprentice Council. The Massachusetts Apprentice Council established under M.G.L. c. 23, § 11E.

Apprentice Program. A program for the, recruitment, selection, employment, training, and qualification of apprentices.

Apprentice Program Sponsor. Any person, association, committee, organization, corporation, partnership, or other entity operating an apprentice program and in whose name the program is registered.

Apprenticeship Committee. Those persons designated by the apprentice program sponsor to act for it in the administration of an apprentice program.

Deputy Director. The Deputy Director of the Department of Labor and Workforce Development's Division of Apprentice Training and his/her designees.

Deregistration. The termination of the registration status of an apprentice program.

Director. The Director of the Department of Labor and Workforce Development and his/her designees.

Division. The Department of Labor and Workforce Development's Division of Apprentice Training.

Employer. Any person or organization employing an apprentice, whether or not such person or organization is a party to an apprentice agreement with the apprentice.

Registration of Apprentice Agreement. The acceptance and recording of an apprentice agreement by the Division following a determination by the Deputy-Director that the agreement meets the requirements of M.G.L. c. 23. §§ 11E through 11L and 453 CMR 7.00.

Registration of Apprentice Program. The acceptance and recording of an apprentice program by the Division following a determination by the Deputy Director that the program meets the requirements of M.G.L. c. 23. §§ 11E through 11L and 453 CMR 7.00.

Related Instruction. Organized classroom instruction designed to provide the apprentice with the theoretical and technical- knowledge related to the apprentice's trade.

Suspension. The temporary termination of the registration of an apprentice program which is instituted by the Division for cause.

7.03: Eligibility for apprentice Program Registration

No apprenticeship program sponsor shall be eligible for registration unless:

(a) The occupation at issue is an apprenticeable occupation as defined in 453 CMR 7.02;

(b) The terms and conditions of the proposed apprentice program comply with the requirements of M G.L. c. 23. §§ 11E through 11L and 453 CMR 7.00; and

(c) The proposed apprentice program conforms to the Massachusetts State Plan for Equal Employment Opportunity in Apprenticeship and Training.

7.04: Procedure for Apprentice Program Registration

(1) All new applicants for apprentice program registration must submit to the Division the following:

- (a) A completed application form as prescribed by the Deputy Director;
 - (b) Documentation describing the proposed apprentice program including, but not limited to, a description of the relevant work processes on which the apprentices will work, the terms and conditions of employment, arrangements for supervision of the apprentices, and the provision of related instruction;
 - (c) A copy of the apprentice agreement form;
 - (d) If the apprentice program sponsor will be administering the program through an apprenticeship committee, documentation describing the organization of the committee and the functions of each of its members;
 - (e) Documentation that the apprentice program sponsor's apprentice activities are primarily located in Massachusetts. Such documentation should include evidence of the following:
 - 1. That the majority of the work to be performed by the apprentices will occur in Massachusetts;
 - 2. That the efforts to conduct outreach for new apprentices will be directed in Massachusetts;
 - 3. That the administration of the proposed apprentice program will be conducted in Massachusetts; and
 - 4. That all documents and records concerning the proposed apprentice program will be located in Massachusetts.
 - (f) A declaration concerning whether the apprentice program sponsor will give credit towards completion of the program for any relevant hands-on training or related instruction which an apprentice may have received while previously participating in other apprentice programs or while employed by previous employers in the relevant occupation and, if so, the terms and conditions under which such credit will be given.
- (2) If the applicant for apprentice program registration is an employer or an employer's association who is a party to a collective bargaining agreement which is applicable to the trade for which the apprentice program is being developed, such applicant must provide a copy of its registration application to the collective bargaining agent no later than two weeks before the date that the application is filed with the Division. With its application for registration, the apprentice program sponsor may submit a written acknowledgement by the collective bargaining agent that.

such agent has no objection to the registration of the apprentice program. If no such acknowledgement is submitted, the applicant must submit to the Division with its application documentation that the collective bargaining agent was provided a copy of the application and was notified that it has the right to file comments with the Division concerning the application. The Division shall allow no less than 30 calendar days nor more than 60 calendar days for receipt of comments by the collective bargaining agent before final action on the application is taken.

If the applicant for apprentice program registration is an employer or an employer's association who is a party to a collective bargaining agreement which is applicable to the trade for which the apprentice program is being developed, such applicant must submit with the application a statement attesting to such fact.

(3) If the applicant for apprentice program registration is involved in any abnormal labor condition, such as a strike, lockout, or other similar condition, the application of an apprentice program shall be withheld until such issue is resolved.

(4) The Deputy Director may deny an application for registration upon a finding that the proposed apprentice program does not comply with M.G.L. c. 23. §§ 11E through 11L, 453 CMR 7.00, or the Massachusetts State Plan for Equal Employment Opportunity in Apprenticeship and Training. Applicants shall be advised by the Deputy Director in writing of the denial and the reasons therefore.

(5) Following registration of an apprentice program, the apprentice program sponsor must notify the Division promptly in writing of any modifications to the program or material changes in the information submitted with the application for registration.

7.05: Standards for Apprentice Programs

All registered apprentice programs must comply with the following standards:

(1) The apprentice must be employed and trained in an apprenticeable occupation as defined in 453 CMR 7.02,

(2) The apprentice shall be provided no less than 2,000 hours per year of employment in the relevant occupation;

(3) The apprentice shall be provided with description of the work processes in which he or she will work and an approximation of the proportion of time to be spent in each major process;

(4) The apprentice program sponsor shall ensure that the apprentice receives approximately 150 hours per year of related instruction in all subjects related to the trade. Such instruction may be given in a classroom or through correspondence courses or other forms of self-study but must be approved by the Deputy Director. The sponsor will not necessarily be responsible for paying the cost of the related instruction or any books, other written materials, or supplies necessary for such instruction. If, however, the apprentice is to be responsible for all or any portion of such costs, the apprentice agreement must contain an explicit statement to that effect;

(5) The sponsor must ensure that the apprentice will be paid no less than an amount specified in a predetermined schedule of wage rates. Such wage rates shall be expressed as a percentage of the established journey person rate and shall progressively increase consistent with the level of skill acquired by the apprentice for the duration of time that the apprentice participates in the apprentice program. The apprentice's scale of wages shall average not less than 50% of the journey person rate for the term of apprenticeship;

(6) The journey person rate used for establishing the apprentice's wage schedule shall be stated in dollars and cents and shall be reviewed annually and, if appropriate, re-adjusted;

(7) The entry apprentice wage rate shall be not less than the minimum wage prescribed by applicable state or federal law;

(8) The apprentice shall be given performance evaluations at the time of each step increase but no less than two performance evaluations per year. Such evaluations shall be in writing either on forms prepared by the Division or forms prepared by the apprentice-program sponsor and approved by the Deputy Director. Nothing, in 453 CMR 7.05 shall preclude the apprentice program sponsor from providing oral performance evaluations in addition to the written evaluations required hereunder;

(9) The ratio of apprentices to journey persons indentured by the apprentice program sponsor shall not exceed the ratios specified in the most recent version of the Division's Ratio Policy Implementation Manual;

(10) The apprentice shall be trained in safe and healthful work practices and shall work only in environments that comply with all applicable Massachusetts and federal occupational safety and health standards;

(11) The apprentice shall not be less than 16 years of age. The employment of apprentices between the ages of 16 and 18 shall comply with all applicable Massachusetts and federal child labor laws;

(19) The apprentice program sponsor may, at its discretion, grant credit or advanced standing to an apprentice for hands-on training or related instruction which the apprentice may have

obtained while previously participating in other apprentice programs or while employed by previous employers. However, such previous training or experience must be documented and comply with M.G.L. c. 23, §§ 11E through 11L and 453 CMR 7.00. Step increases in pay shall be commensurate with the credit given to the apprentice. The granting or denial of credit or advanced standing to any particular apprentice must conform to the apprentice program sponsor's stated policy on this issue as described in the apprentice program application materials and in the apprentice agreement;

(13) Upon successful completion of the apprentice program, the apprentice program sponsor shall provide the apprentice with a certificate evidencing completion of the program; and

(14) The apprentice program sponsor shall establish a procedure to receive, investigate, and resolve complaints and concerns raised by apprentices relative to the apprentice program. To the extent possible, confidentiality of the information provided to the apprentice program- sponsor concerning matters raised by apprentices shall be maintained.

7.06: Registration of Apprentice Agreements

(1) All apprentices participating in an apprentice program must execute an apprentice agreement with the apprentice program sponsor.

(2) No apprentice agreement shall be effective until it is submitted to, and approved by, the Deputy Director.

(3) No apprentice program sponsor may submit for registration an apprentice agreement if, at the time that the apprentice agreement is submitted to the Division, the sponsor has reason to believe that the apprentice who executed the agreement will not be provided continuous employment for the entire period of time required to complete the program.

(4) The apprentice agreement shall contain the following terms, conditions, and information:

(a) The names and signatures of the contracting parties;

(b) If the apprentice is a minor, the name and signature of the apprentice's parent or guardian;

(c) The apprentice's date of the birth;

(d) The name and address of the apprentice program sponsor and the Division;

(e) The name of the trade or craft in which the apprentice is to be trained;

(f) The date on which the apprentice's participation in the program is to commence and the term of apprenticeship;

(g) The number of hours per year of hands -on training that will be provided to the apprentice;

(h) The number of hours per year of related instruction which the apprentice will receive and whether the apprentice will be responsible for paying any or all of the costs of related instruction.

(i) The total number of hours of hands-on training and related instruction required of the apprentice for completion of the program;

(j) A description of the work processes in which the apprentice will work and an approximation of the proportion of time to be spent in each major process;

(k) A statement of the graduated scale of wages to be paid to the apprentice as described in 453 CMR 7.05(5);

(l) A statement describing the duration and conditions of .the probationary. Period and the term and conditions governing apprentice agreement cancellation as prescribed by 453 CMR 7.07;

(m) A statement that the apprentice will be given equal opportunity in all phases of the apprentice program and will not be discriminated against based on race, color, religion, national origin, gender, or sexual orientation;

(n) The name(s), addresses) and telephone number(s) of the individual(s) designated by the apprentice program sponsor to receive, investigate, and resolve complaints and concerns raised by apprentices relative to the apprentice program;

(o) A statement that if the apprentice has a complaint or concern relative to the apprentice program which, after fully exhausting all internal procedures, is not resolved by the apprentice program sponsor to the apprentice's satisfaction, then the Deputy Director is available to receive, investigate, and resolve the complaint or concern Matters unrelated to 453 CMR 7.00 or M.G.L. c. 23. §§ 11E through 11L are not subject to such review;

(p) A statement that the apprentice's participation in the apprentice program is governed by M.G.L. c. 23 §§ 11E through 11L and 453 CMR 7.00; and

(q) The amount of credit which the apprentice program sponsor will give to the apprentice towards completion of the program, if any, Sorry any relevant hands-on training-or related instruction which the apprentice may have obtained while previously participating in other apprentice programs or while employed by previous employers.

(5) Within 30 calendar days of an apprentice's cancellation or completion of the apprentice program, the apprentice program sponsor must send written notification thereof to the Division.

7.07: Probation and Cancellation of Apprentice Agreements

(1) The apprentice program sponsor shall establish a probationary period for new apprentices during which time the apprentice agreement may be canceled by any party to the agreement for any reason upon notice to the Division. Upon completion of the probationary period, the apprentice shall be given full credit for the term of the probationary period toward completion of the apprentice program.

(2) Following the probationary period, an apprentice agreement may be canceled either by consent of all of the parties to the agreement or by one or more parties upon a showing of sufficient cause. If cancellation is sought by a party to the agreement other than the apprentice, the apprentice shall be given notice of the proposed cancellation and a reasonable opportunity to make corrective action.

(3) The apprentice program sponsor shall give written notice to the Division of the cancellation of any apprentice agreement and the reason(s) therefore within 30 calendar days of the cancellation.

(4) At any time during the period of apprenticeship, the Deputy Director may cancel an apprentice agreement where he or she deems appropriate.

7.08: Suspension and Deregistration of Apprentice Programs

Suspension or deregistration of an apprentice program may be effected voluntarily by the apprentice program sponsor or by order of the Deputy Director.

(1) Voluntary Deregistration by Sponsor. The apprentice program sponsor may voluntarily deregister an apprentice program by providing written notice of such voluntary deregistration to the Division which shall include the effective date of the deregistration. Following receipt of such notice, the Deputy Director shall provide written acknowledgement of the deregistration to the apprentice program sponsor. Within ten business days of receipt by the apprentice program sponsor of such acknowledgement, the sponsor must provide written notice to all apprentices of the deregistration of the apprentice program which shall state that such deregistration automatically effects the termination of all apprentice agreements executed thereunder.

2) Suspension or Deregistration by the Division.

(a) The Deputy Director may institute proceedings to suspend or deregister an apprentice program upon finding of sufficient cause. The apprentice program sponsor shall be notified in writing of the proposed suspension or deregistration and reasons therefore in the case of a suspension, the sponsor shall also be notified of the intended duration of the proposed suspension and any conditions that must be met before reinstatement of the registration. Any of the following shall constitute sufficient cause for suspension or deregistration:

1. False statements or material omissions in the application for registration or documentation submitted therewith;

2. Violation of any of the requirements of M.G.L. c. 23. §§ 11E through 11L or 453 CMR 7.00; or

3. Violation of any Massachusetts or federal law which the Deputy Director determines to be of such serious and compelling nature to warrant suspension or deregistration of the apprentice program.

(b) Apprentice program sponsors shall have the right to a hearing before the Deputy Director on a proposed suspension or deregistration by submitting a written request for a hearing within ten business days of receipt of the notice of suspension or deregistration. Such notice must state the main facts and points of law the apprentice program sponsor intends to raise at the hearing in support of its contention that the proposed action should not be taken. If the Division does not receive such request within ten business days of the sponsor's receipt of the notice, the proposed action will be effective immediately upon expiration of such ten day period.

(c) If a request for a hearing before the Deputy Director is filed timely, the Deputy Director shall conduct such hearing in accordance with the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01: Formal Rules. Following the hearing, the determination of the Deputy Director shall be filed with the Director and notice of such determination shall, at the same time, be sent to all interested parties.

(d) If no appeal of the determination of the Deputy Director is filed with the Director within ten business days of filing and notice of the Deputy Director's determination, such determination shall be effective immediately upon expiration of such ten day period. If an appeal is filed timely by an interested party, the Director shall conduct a hearing on the proposed action in accordance with the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01: Formal Rules. Following the hearing, notice of the determination of the Director shall be sent to all interested parties.

(e) Any interested party aggrieved by the determination of the Director may appeal to the superior court as provided in M.G.L. c. 23. §§ 11K.. If no such appeal is filed within 30 calendar days from the date of receipt of the notice of the Director's determination, such determination shall be effective immediately upon expiration of such 30 day period.

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(f) Within ten business days of the effective date of a suspension or deregistration, the apprentice program sponsor must provide written notice to all apprentices that, for the period of such suspension or deregistration,

all apprentice agreements are automatically terminated.

(3) Documentation of Apprentice Hours. within 30 calendar days of the date of the deregistration (either voluntary or involuntary) of an apprentice program, the apprentice program sponsor shall send to the Division a copy of all documents demonstrating the number of hours of hands-on training and related instruction obtained by all apprentices employed in the program.

7.09: Reinstatement of Apprentice Program Registration

Any apprentice program suspended or deregistered pursuant to 453 CMR 7.08 may be reinstated, at the discretion of the Deputy Director, upon presentation to the Deputy Director of adequate evidence that the condition that gave rise to the action has been rectified. Following a deregistration for cause, the apprentice sponsor may not file a request for reinstatement of registration prior to six months after the effective date of the deregistration.

Upon reinstatement of an apprentice program following a suspension or deregistration, the apprentices employed under such program shall be given credit for any bona fide hands-on training or related instruction obtained by such apprentices during the period of the suspension or deregistration. However, the amount of credit for hands-on training shall not exceed the number of hours of such training corresponding to six months of employment in the trade in which the apprentice is registered.

7.10: Recordkeeping

(1) Registered apprentice program sponsor; shall maintain the following documents in a centralized location in Massachusetts and shall make such records available to the Deputy Director:

(a) A complete copy of the apprentice program sponsor's application for registration and all documentation submitted therewith;

(b) Documentation concerning any violations of M.G.L. c. 23. §§ 11E through 11L or 453 CMR 7.00 cited by the Division or any prior action instituted by the Division to suspend or deregister the apprentice program;

(c) Copies of all current or canceled apprentice agreements;

- (d) Copies of all certificates evidencing completion by apprentices of the apprentice program;
 - (e) A current list of journeypersons who are members or employees of the apprentice sponsor and are licensed in the trade covered by the apprentice program. The list shall include the license numbers of each such journeyperson;
 - (f) Documents concerning any complaints or concerns by apprentices and efforts by the apprentice program sponsor to investigate and resolve such matters;
 - (g) Documentation of the number of hours of hands-on-training provided to each apprentice in the program;
 - (h) Documentation of the number of hours of related instruction received by each apprentice in the program; and
 - (i) Copies of all apprentice performance reviews.
- (2) Documents required by 453 CMR 7.10(1) shall be retained for a period of not less than ten years.

7.11: Limitations of Regulations

- (1) Nothing in 453 CMR 7.00 shall operate to invalidate:
- (a) Any term or condition in any collective bargaining agreement between employers and employees establishing more stringent standards of apprenticeship; or
 - (b) Any special provisions instituted by the apprentice program sponsor for the benefit of veterans, minority persons, or women which are not otherwise prohibited by law.

7.12: Severability

If any provision of 453 CMR 7.00 is held to be unconstitutional or inconsistent, either on its face or as applied, with any provision of Massachusetts or federal law, the unconstitutionality or inconsistency shall not affect the remaining provisions.